

UNITED STATES DISTRICT COURT,  
SOUTHERN DISTRICT OF NEW YORK

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MARTHA FEDORIW,

Plaintiffs,  
-against-

**NOTICE OF MOTION FOR  
SUMMARY JUDGMENT**

NEW YORK CONVENTION CENTER OPERATING  
CORPORATION and CARL ZEISS VISION, INC.,

Docket No.: 07 CIV 7446 (HB)

Defendants.  
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Defendant, NEW YORK CONVENTION CENTER OPERATING CORPORATION, upon the annexed affirmation of Heidi M. Weiss, sworn to on October 22, 2007, the exhibits annexed thereto, and all prior pleadings and proceedings in this action, will move this Court, on November 20, 2007, under Rule 12(c) of the Federal Rules of Civil Procedure, for summary judgment dismissing plaintiff's complaint and all cross-claims asserted against defendant New York Convention Center Operating Corporation on the ground that this action was commenced after the expiration of the statute of limitations.

Please take further notice that Pursuant to local Civil Rule 6.1 (b) answering affidavits and memoranda must be served on the undersigned within ten business days after service of the moving papers.

Dated: New York, New York  
October 22, 2007

Yours etc.,  
Law Offices of Edward Garfinkel  
Attorneys for Defendant  
New York Convention Center Operating Corporation

By: \_\_\_\_\_  
Heidi M. Weiss (HME 7014)  
110 William Street  
New York, New York 10038-3901  
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TO:

Peter A. Greiner, Esq.  
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New York, New York 10170

Carl Zeiss Vision, Inc.  
13017 North Kingston Avenue  
Chester, Virginia  
*No Appearance*

UNITED STATES DISTRICT COURT,  
SOUTHERN DISTRICT OF NEW YORK

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MARTHA FEDORIW,

Plaintiffs,

-against-

AFRIMRATION IN SUPPORT

Docket No.: 07 CIV 7446 (HB)

NEW YORK CONVENTION CENTER OPERATING  
CORPORATION and CARL ZEISS VISION, INC.,

Defendants.

-----X

HEIDI M. WEISS, ESQ., an attorney duly admitted to practice law in the State of New York, and who is associated with the Law Offices of Edward Garfinkel, attorneys for the defendant, NEW YORK CONVENTION CENTER OPERATING CORPORATION. submits this statement affirmed upon information and belief to be true under the penalties of perjury:

1. This affirmation is submitted in support of the motion by New York Convention Center Operating Corporation (“NYCCOC”) for an Order of Summary Judgment dismissing plaintiff’s complaint and all cross-claims, pursuant to FRCP Rule 12(c) on the grounds that plaintiff failed to commence this action within the applicable one year statute of limitations.

2. This action arises out of an accident that is alleged to have occurred on April 2, 2006 while she was attending the International Vision Expo at the Jacob Javits Convention Center. Plaintiff claims that she was caused to trip and fall over a display by Carl Zeiss, Inc., one of the exhibitors at the show. A copy of the Summons and Complaint is annexed hereto as Exhibit “A”. A copy of defendant’s answer is annexed hereto as Exhibit “B”.

3. The legislature created the NYCCOC, a public benefit corporation, for the purpose of “operating and maintaining” the Javits Center. Public Authorities Law §§2561, 2563(4).

4. The applicable statute of limitations to commence an action against NYCCOC is one year from the date that the action accrued. See PAL §2570. In addition, the statute requires that a notice of claim, in accordance with the New York General Municipal Law section 50-e, shall be a condition precedent to the commencement of an action against NYCCOC. The notice of claim must be served on the NYCCOC within 90 days after the claim arises. Plaintiff has failed to meet the condition precedent to commence this action by failing to plead that a notice of claim was served.

5. The summons and complaint was filed with the court on August 22, 2007. Service on NYCCOC was made on September 5, 2007. A copy of the Affidavit of Service is annexed as Exhibit "C".

6. In accordance with Public Authorities Law the statute of limitations expired on April 2, 2007, five months before the action was commenced.

WHEREFORE, it is respectfully requested that defendant NEW YORK CONVENTION CENTER OPERATING CORPORATION'S motion for summary judgment be granted in its entirety and the action be dismissed..

Dated: New York, New York  
October 2, 2007

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Heidi M. Weiss